

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q96003

Serge KUROWSKI

Appln. No.: 10/598,684

Group Art Unit: 3632

Confirmation No.: 8969

Examiner: Kimberly T. Wood

Filed: September 8, 2006

For: DEVICE FOR SUPPORTING A ROTATING FRAME OF A FILTRATION
INSTALLATION

PETITION TO WITHDRAW FINALITY UNDER 37 C.F.R. 1.181

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request withdrawal of the finality of the Office Action dated February 4, 2011, and issuance of a new Office Action for the reasons discussed below.

On page 3 of the Office Action, claims 1-3, 6-9, 11, and 12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite. However, a number of the issues raised in this rejection are directed to recitations that were in the original claims but were not rejected previously, so Applicant is improperly being given only one opportunity to respond to these issues since the present Office Action has been made final. As set forth in detail below, Applicant's amendment filed November 23, 2010 did not necessitate these new grounds of rejection, so Applicant submits that the finality of the Office Action should be withdrawn.

For example, the Examiner indicates for the first time that there is insufficient antecedent basis for the limitation "vice versa" in lines 9 and 11 of claim 1 (see page 3 of the final Office Action), even though those recitations were present in original claim 1 (see original claim 1 in the Preliminary Amendment filed September 8, 2006), so the Examiner should not be permitted to first reject those recitations now in a final Office Action.

With respect to the Examiner's indication that the limitations "a first bending state" and "a second bending state" in line 11 of claim 1 have insufficient antecedent basis, Applicant

submits that these recitations were present in the original claims and the Examiner did not reject them for indefiniteness previously, so the Examiner should not be permitted to first reject them now in a final Office Action.

Also, the Examiner indicates that there is insufficient antecedent basis for the limitation “[the] bending state” in line 11 of claim 1, but this recitation was present in original claim 1, so the Examiner should not be permitted to first reject it now in a final Office Action.

The above items are examples of issues only now raised by the Examiner with respect to recitations present in the original claims (others include issues with respect to “variable” in claim 2 and “its pivot axis” in claim 12).

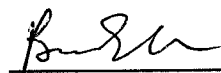
While the paragraph bridging pages 5-6 of the Office Action of August 23, 2010 indicates that “the Examiner may not have pointed out each and every example of indefiniteness”, Applicant should not be required to determine which recitations the Examiner thinks are indefinite but does not identify as being indefinite, particularly where Applicant disagrees with the Examiner’s thinking and does not consider the recitations to be indefinite.

Accordingly, Applicant submits that the finality of the present Office Action is improper and should be removed.

In view of the above, Applicant respectfully requests withdrawal of the finality of the Office Action, and issuance of a new, non-final Office Action.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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23373

CUSTOMER NUMBER

Date: April 4, 2011